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OFFICE OF PETITIONS

In re Application of	:	
Kevin A. Stoodley, et al.	:	
Application No.: 09/867,362	:	DECISION ON PETITION
Filed: May 29, 2001	:	UNDER 37 CFR 1.181
Attorney Docket No.: CA920000080US1	:	
For: EFFICIENT LOCKING FOR THREAD-	:	
SAFE SELF-MODIFYING CASE	:	

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed September 8, 2005. For the reasons discussed herein the petition is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

As indicated in the Notice of Abandonment mailed 01 September 2005, the above-identified application became abandoned for failure to respond in a timely manner to the Office letter mailed April 08, 2004.

On 08 September 2005, applicant filed the present petition arguing that the Office Action mailed 08 April 2004 was never received by applicant.

As discussed below, when applicant claims that abandonment of the application was improper because applicant never received an Office Action, a petition under 37 CFR 1.137(a) or (b) is not required. Instead, a petition under 37 CFR 1.181 is proper. No petition fee is required. Therefore, the \$1500.00 petition fee will be refunded to deposit account number 09-0460.

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971). Applicant has satisfied item (1) above.

Applicant has not satisfied items (2)-(4). Therefore applicant's petition to withdraw the holding of abandonment is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from

the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

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This application remains **ABANDONED**.

Telephone inquiries concerning this decision should be directed to the undersigned.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', is positioned above the printed name and title.

Derek A. Putonen
Attorney Advisor
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